

### REMARKS

Claims 1-13 remain pending in the application. Claims 1, 3, 5, and 11-13 have been amended. Claims 14-27 were previously canceled and withdrawn from consideration.

Claim 1, 2, 5, 6, and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by James et al. (U.S.P. No. 5,479,042) (James).

The Office Action states that "James describes a micro-electromechanical system (MEMS) switch comprising." Applicants respectfully traverse this assertion for the following reasons:

Applicants contend that James' invention is limited to a micro-machined relay, as recited throughout his patent. James states, for instance, in col. 1, lines 4-15, "[Such] relays are generally large and require a large amount of power, thereby producing a large amount of heat" (lines 13-15).

In contrast, Applicants teach a MEMS switching device having minimal dimensions and dissipating a minimum amount of heat. Thus, James by disclosing a large device designed to handle large amounts of currents and dissipating large amounts of heat teaches away from what Applicants deem to be their invention.

Applicants submit further that the micro-machined relay taught by James is known to be different and operate differently than a MEMS switch. For instance, James recites in col. 2, lines 29-31, "[R] relays made by the micro-machining methods, ..., exhibit a large number of -stuck-open contacts". In contradistinction, Applicants contend that the MEMS switch of their invention is known to display a stuck-close mode of failure (due to a electrico-mechanical phenomena known as stiction).

In view of the foregoing, Applicants believe that the MEMS switch of their invention teaches away from the micro-machined relay taught by James.

Notwithstanding the arguments submitted herewith, and in order to advance the prosecution of the present invention, Applicants have amended claim 1 to include therein the limitation of the (original) claim 3 which was objected to in the Office Action.

Thus, Applicants believe that the amended claim 1 and all the rejected claims dependent thereof are now free of rejection under 35 U.S.C. 102(b), and respectfully request that the Examiner reconsider and withdraw the rejection of the stated claims based thereon.

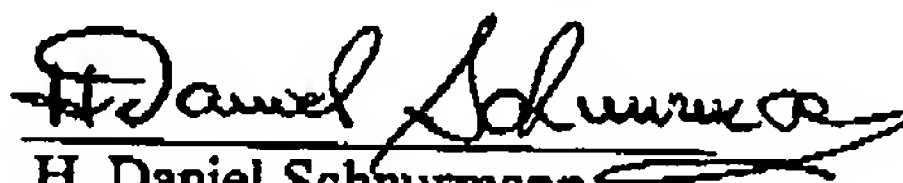
In view of the foregoing amendments and arguments, Applicants respectfully request that all the rejections and objections to this application be reconsidered and withdrawn and that the Examiner pass all the pending claims to issue.

Should the Examiner have any suggestions pertinent to the allowance of this application, the Examiner is encouraged to contact Applicants' undersigned representative.

Respectfully submitted,

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